



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

Patent Cooperation Treaty  
Legal Office

Address: Assistant Commissioner for Patents  
Box PCT  
Washington, D.C. 20231

APR 24 2000

SCHWEITZER CORNMAN GROSS  
& BONDELL LLP  
230 Park Avenue, Suite 2000  
New York, New York 10169

In re Application of  
SCHUMANN et al.  
Application No.: 09/484,121  
Filing Date: 04 April 1998  
Attorney's Docket No.: 0107-020P/GPK  
For: THERAPEUTIC AGENT FOR THE  
TREATMENT OF SEPTICAEMIA, ITS  
PREPARATION AND USE

: DECISION ON  
: PETITION  
: UNDER 37 CFR 1.137(b)  
:  
:  
:  
:  
:

This is a decision on applicant's "Petition to Revive Unintentionally Abandoned Application" under 37 CFR 1.137(b) filed 13 January 2000 to revive international application PCT/DE98/00964 for purposes of copendency with the present application.

**BACKGROUND**

On 04 April 1998, applicants filed international application PCT/DE98/00964, which designated the United States and claimed a priority date of 11 July 1997. A Demand for international preliminary examination was filed prior to expiration of 19 months from the priority date. Accordingly, the last day of the thirty-month period for paying the basic national fee for entry into the national stage in the United States was 11 January 2000. The case was ABANDONED on 12 January 2000.

On 13 January 2000, applicant filed, *inter alia*: a transmittal letter regarding a "New Patent Application"; an application containing a specification, including claims and drawings; and the instant petition and fee to revive the international application as to the United States under 37 CFR 1.137(b) for purposes of copendency with the present application.

**DISCUSSION**

International application PCT/DE98/00964 became abandoned as to the United States of America at midnight on 12 January 2000 for failure to pay the basic national fee.

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply unless it has been previously submitted, (2) the fee set forth in 37 CFR 1.17(m), (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional" and (4) a terminal disclaimer, in an application filed before 08 June 1995.

As to item (2), the required petition fee has not been paid and applicant has not supplied a deposit account number to charge the petition fee. Accordingly, the petition is dismissed.

**CONCLUSION**

For the reasons above, the petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

The international application remains **ABANDONED** as to the United States.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." No additional petition fee is required.

Extensions of time may be obtained under 37 CFR 1.136(a).

This application is being forwarded to Office of Initial Patent Examination to process the submission of the 13 January 2000 as a U.S. application filed under 35 U.S.C. 111(a). Because of the lack of copendency, the present application will not be treated as a continuation of international application number PCT/DE98/00964.



Boris Milef  
PCT Legal Examiner  
PCT Legal Office



Anthony Smith  
Petitions Attorney  
PCT Legal Office  
Telephone: (703) 308-6314  
Facsimile: (703) 308-6459